

STATE OF INDIANA,       )  
                                      )SS:  
COUNTY OF MIAMI,       )

IN THE MIAMI CIRCUIT AND  
SUPERIOR COURTS

LR52-CR00-2

**MIAMI COUNTY CRIMINAL DISCOVERY RULES**

The Courts now order that the parties engage in mutual discovery without the necessity of further motion or directive as follows:

1. The State shall disclose to the defense the following material and information within its possession or control on or before 14 days following the entry of a plea of not guilty.

(a) The names and last known addresses of persons whom the State may call as witnesses, together with (1) their relevant written or recorded statements, (2) memoranda containing substantially verbatim reports of their oral statements (if any memoranda exist), (3) memoranda reporting or summarizing oral statements (if such memoranda exist), (4) a brief statement, normally not to exceed ten words, indicating the nature of each witness' involvement in the case; such statement may be no more than a reference to statements described in paragraphs 1(a)(1), (2), or (3) above.

(b) Any written or recorded statements and the substance of any oral statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgment of such statements.

(c) A transcript of those portions of grand jury minutes containing testimony of persons whom the prosecuting attorney may call as witnesses at the hearing or trial, as designated by the defense after listening to the recording of the testimony.

(d) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons.

(e) Any books, papers, documents, photographs or tangible objects which the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused, together with the location of such items and an indication of appropriate means for defense counsel's examination of same. Under circumstances where chain of custody issues are readily apparent, such as drug cases, such chain shall be provided to the extent available on the disclosure date provided above and shall be supplemented (1) upon defendant's written request, (2) by pre-trial conference, and (3) thereafter as ordered to complete such chain.

(f) Any record or prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial.

(g) A copy of any written agreement and the complete substance of any oral agreement made by the State with (1) any witnesses to secure their testimony or (2) any co-defendant or other person charged arising out of the same incident.

(h) Any evidence that tends to negate the guilt of the accused as to the crime charged or tends to reduce the class of the act alleged or which would tend to mitigate his punishment.

2. (a) The State shall perform these obligations in any manner mutually agreeable to the Prosecutor's Office and to defense counsel. The State shall provide legible copies of statements described in paragraphs 1(a), (b), (c), and (g) as well as transcripts of any audio or videotape recorded statement or a copy of the audio or videotape. Other items shall be provided for examination, testing, copying, photographing, or other proper use either by agreement or at specified reasonable times and places. Defense counsel shall provide reasonable notice of such examination and shall schedule these examinations in cooperation with the State.

(b) The State shall make a record of compliance with this order not more than five (5) days after the date set out in paragraph 1 above by filing with the Court: (1) its witness list together with the statement described in 1(a)(4); (2) a suitable description of memoranda and items provided, but not necessarily by providing copies of all such items to the Court; and (3) an indication of arrangements made for inspection.

3. The defense shall disclose the State the following material and information within its possession or control on or before fourteen (14) days following the date that the State has provided to the defense the information required under this order.

(a) The names and address of persons whom the defendant may call as witnesses along with (1) a summary of their testimony similar to that described in 1(a)(4), (2) record of prior criminal convictions, and (3) the relationship, if any, of the witness to defendant or any co-defendant.

(b) Any books, papers, documents, photographs, or tangible objects that are intended to be used at a hearing or trial.

(c) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons insofar as permitted by law.

(d) A statement of defenses, procedural or substantive, the defendant intends to make at a hearing or trial. Such a statement shall not limit defendant's right

to file any defense defined by statute, such as alibi, insanity, etc., where a specific timetable for notice to the State is statutorily described.

4. (a) The defendant shall perform these obligations in any manner mutually agreeable to the Prosecutor's Office and to defense counsel. Defense shall provide opportunities for examination in a fashion similar to the State's obligations described in 2(a).

(b) The defense shall make a record of compliance with this order not more than five (5) days after the date set out in paragraph 3 above by filing with the Court: (1) its witness list together with the statement described in 3(a)(1); (b) a suitable description of items provided for examination, etc.; and (c) the statement of defense described in 3(d).

5. The Court anticipates that compliance will be deemed satisfactory unless failure to comply is brought to the Court's attention by Motion to Compel. Sanctions for failure of compliance or violations of orders on Motion to Compel shall be pursuant to Trial Rule 37.

6. Nothing herein shall limit any party's right to seek protective orders to avoid destruction or other loss of evidence, or to seek deposition at such times as they may desire.

7. The Court may deny disclosure upon showing of:

(a) A substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure that outweighs any usefulness of the disclosure to counsel.

(b) Where there is a paramount interest in non-disclosure of an informant's identity and a failure to disclose will not infringe the constitutional rights of the accused. Disclosure of the identity of witnesses to be produced at a hearing or trial will be required.

(c) Such determination of non-disclosure shall be by the Court and shall not be within the discretion of the State or defense. Such non-disclosure shall be sought by motion for protective order.

8. Disclosure shall not be required of:

(a) Any matter otherwise protected by law (however, disclosing the identity of juvenile co-defendants or witnesses shall not be barred because of delinquency non-disclosure statutes).

(b) Work product of counsel including memoranda of opinions, theories, or research for themselves or from their legal or in-house investigative staff.

9. This discovery order is a continuing order through the trial of this cause and no written motion shall normally be required except to compel discovery, for a protective order, or for an extension of time.

10. Failure of either party to engage in and comply with discovery shall not be excused by the parties' unsuccessful or incomplete efforts to enter into a plea agreement or other resolution of the case unless both parties waive in writing (a) compliance with this order for a specified period of time and (b) any speedy trial requirements.

11. Any cost for reproduction or transcripts under this order shall be borne by the party to whom the information is provided except that as to pauper counsel defendants the costs shall be borne by the State or county.

12. Nothing in this Order is to be in contravention of case law or statute.